

AMENDED IN SENATE JUNE 6, 2013
AMENDED IN ASSEMBLY MAY 9, 2013
AMENDED IN ASSEMBLY APRIL 10, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Torres

February 19, 2013

An act to amend Sections 207, 212, 5140, 5151, 7140, 7151, 9140, and 9151 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL’S DIGEST

AB 491, as amended, Torres. Corporations: bylaws: emergency powers.

Existing law authorizes and regulates the formation and operation of a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation, including, but not limited to, the adoption and contents of corporate bylaws.

This bill would authorize a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation to take actions *in anticipation of or* during an emergency, as defined, to conduct these corporations’ ordinary business operations and affairs, as specified, and provide that any action taken in good faith *in anticipation of or* during an emergency under this authorization would bind these corporations and not be a basis to impose liability on a corporate director, officer, employee, or agent. This bill would also authorize a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation to adopt bylaws to ~~further direct the operations of these corporations during~~

manage and conduct ordinary business affairs of the corporation effective only in an emergency, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 207 of the Corporations Code is amended
2 to read:
3 207. Subject to any limitations contained in the articles and to
4 compliance with other provisions of this division and any other
5 applicable laws, a corporation shall have all of the powers of a
6 natural person in carrying out its business activities, including,
7 without limitation, the power to:
8 (a) Adopt, use, and at will alter a corporate seal, but failure to
9 affix a seal does not affect the validity of any instrument.
10 (b) Adopt, amend, and repeal bylaws.
11 (c) Qualify to do business in any other state, territory,
12 dependency, or foreign country.
13 (d) Subject to the provisions of Section 510, issue, purchase,
14 redeem, receive, take or otherwise acquire, own, hold, sell, lend,
15 exchange, transfer or otherwise dispose of, pledge, use, and
16 otherwise deal in and with its own shares, bonds, debentures, and
17 other securities.
18 (e) Make donations, regardless of specific corporate benefit, for
19 the public welfare or for community fund, hospital, charitable,
20 educational, scientific, civic, or similar purposes.
21 (f) Pay pensions, and establish and carry out pension,
22 profit-sharing, share bonus, share purchase, share option, savings,
23 thrift and other retirement, incentive, and benefit plans, trusts, and
24 provisions for any or all of the directors, officers, and employees
25 of the corporation or any of its subsidiary or affiliated corporations,
26 and to indemnify and purchase and maintain insurance on behalf
27 of any fiduciary of such plans, trusts, or provisions.
28 (g) Subject to the provisions of Section 315, assume obligations,
29 enter into contracts, including contracts of guaranty or suretyship,
30 incur liabilities, borrow and lend money, and otherwise use its
31 credit, and secure any of its obligations, contracts, or liabilities by
32 mortgage, pledge, or other encumbrance of all or any part of its
33 property, franchises, and income.

1 (h) Participate with others in any partnership, joint venture or
2 other association, transaction, or arrangement of any kind, whether
3 or not such participation involves sharing or delegation of control
4 with or to others.

5 (i) (1) ~~In advance~~ *anticipation* of or during an emergency, take
6 ~~any or all either or both~~ of the following actions necessary to
7 conduct the corporation's ordinary business operations and affairs
8 ~~during an emergency~~, unless emergency bylaws provide otherwise
9 pursuant to subdivision (c) of Section 212:

10 (A) Modify lines of succession to accommodate the incapacity
11 of any director, officer, employee, or agent resulting from the
12 emergency.

13 (B) Relocate the principal office, designate alternative principal
14 offices or regional offices, or authorize the officers to do so.

15 (2) *During an emergency, take either or both of the following*
16 *actions necessary to conduct the corporation's ordinary business*
17 *operations and affairs, unless emergency bylaws provide otherwise*
18 *pursuant to subdivision (c) of Section 212:*

19 ~~(C)~~

20 (A) Give notice to a director or directors in any practicable
21 manner under the circumstances, including, but not limited to, by
22 publication and radio, when notice of a meeting of the board cannot
23 be given to that director or directors in the manner prescribed by
24 the bylaws or Section 307.

25 ~~(D)~~

26 (B) Deem that one or more officers of the corporation present
27 at a board meeting is a director, in order of rank and within the
28 same rank in order of seniority, as necessary to achieve a quorum
29 for that meeting.

30 ~~(2) During~~

31 (3) *In anticipation of or during* an emergency, the board may
32 not take any action that requires the vote of the shareholders or is
33 not in the corporation's ordinary course of business, unless the
34 required vote of the shareholders was obtained prior to the
35 emergency.

36 ~~(3)~~

37 (4) Any actions taken in good faith *in anticipation of or during*
38 an emergency under this subdivision ~~binds~~ *bind* the corporation
39 and may not be used to impose liability on a corporate director,
40 officer, employee, or agent.

1 ~~(4)~~

2 (5) For purposes of this subdivision, “emergency” means any
3 of the following events or circumstances as a result of which, and
4 only so long as, a quorum of the corporation’s board of directors
5 cannot be readily convened for action:

6 (A) A natural catastrophe, including, but not limited to, a
7 hurricane, tornado, storm, high water, wind-driven water, tidal
8 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
9 snowstorm, or drought, or, regardless of cause, any fire, flood, or
10 explosion.

11 (B) An attack on this state or nation by an enemy of the United
12 States of America, or upon receipt by this state of a warning from
13 the federal government indicating that an enemy attack is probable
14 or imminent.

15 (C) An act of terrorism or other manmade disaster that results
16 in extraordinary levels of casualties or damage or disruption
17 severely affecting the infrastructure, environment, economy,
18 government functions, or population, including, but not limited
19 to, mass evacuations.

20 (D) A state of emergency proclaimed by ~~the Governor~~ *a*
21 *governor or by the President.*

22 SEC. 2. Section 212 of the Corporations Code is amended to
23 read:

24 212. (a) The bylaws shall set forth (unless such provision is
25 contained in the articles, in which case it may only be changed by
26 an amendment of the articles) the number of directors of the
27 corporation; or that the number of directors shall be not less than
28 a stated minimum nor more than a stated maximum (which in no
29 case shall be greater than two times the stated minimum minus
30 one), with the exact number of directors to be fixed, within the
31 limits specified, by approval of the board or the shareholders
32 (Section 153) in the manner provided in the bylaws, subject to
33 paragraph (5) of subdivision (a) of Section 204. The number or
34 minimum number of directors shall not be less than three; provided,
35 however, that (1) before shares are issued, the number may be one,
36 (2) before shares are issued, the number may be two, (3) so long
37 as the corporation has only one shareholder, the number may be
38 one, (4) so long as the corporation has only one shareholder, the
39 number may be two, and (5) so long as the corporation has only
40 two shareholders, the number may be two. After the issuance of

1 shares, a bylaw specifying or changing a fixed number of directors
2 or the maximum or minimum number or changing from a fixed to
3 a variable board or vice versa may only be adopted by approval
4 of the outstanding shares (Section 152); provided, however, that
5 a bylaw or amendment of the articles reducing the fixed number
6 or the minimum number of directors to a number less than five
7 cannot be adopted if the votes cast against its adoption at a meeting
8 or the shares not consenting in the case of action by written consent
9 are equal to more than $16\frac{2}{3}$ percent of the outstanding shares
10 entitled to vote.

11 (b) The bylaws may contain any provision, not in conflict with
12 law or the articles for the management of the business and for the
13 conduct of the affairs of the corporation, including but not limited
14 to:

15 (1) Any provision referred to in subdivision (b), (c) or (d) of
16 Section 204.

17 (2) The time, place, and manner of calling, conducting, and
18 giving notice of shareholders', directors', and committee meetings.

19 (3) The manner of execution, revocation, and use of proxies.

20 (4) The qualifications, duties, and compensation of directors;
21 the time of their annual election; and the requirements of a quorum
22 for directors' and committee meetings.

23 (5) The appointment and authority of committees of the board.

24 (6) The appointment, duties, compensation, and tenure of
25 officers.

26 (7) The mode of determination of holders of record of its shares.

27 (8) The making of annual reports and financial statements to
28 the shareholders.

29 (c) (1) The bylaws may contain any provision, not in conflict
30 with the articles, to manage and conduct the ordinary business
31 affairs of the corporation effective only in an emergency as defined
32 in Section 207, including, but not limited to, procedures for calling
33 a board meeting, quorum requirements for a board meeting, and
34 designation of additional or substitute directors.

35 (2) During an emergency, the board may not take any action
36 that requires the vote of the shareholders or otherwise is not in the
37 corporation's ordinary course of business, unless the required vote
38 of the shareholders was obtained prior to the emergency.

39 (3) All provisions of the regular bylaws consistent with the
40 emergency bylaws shall remain effective during the emergency,

1 and the emergency bylaws shall not be effective after the
2 emergency ends.

3 (4) Corporate action taken in good faith in accordance with the
4 emergency bylaws binds the corporation, and may not be used to
5 impose liability on a corporate director, officer, employee, or agent.

6 SEC. 3. Section 5140 of the Corporations Code is amended to
7 read:

8 5140. Subject to any limitations contained in the articles or
9 bylaws and to compliance with other provisions of this division
10 and any other applicable laws, a corporation, in carrying out its
11 activities, shall have all of the powers of a natural person,
12 including, without limitation, the power to:

13 (a) Adopt, use, and at will alter a corporate seal, but failure to
14 affix a seal does not affect the validity of any instrument.

15 (b) Adopt, amend, and repeal bylaws.

16 (c) Qualify to conduct its activities in any other state, territory,
17 dependency, or foreign country.

18 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
19 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
20 use, and otherwise deal in and with its own bonds, debentures,
21 notes, and debt securities.

22 (e) Issue memberships.

23 (f) Pay pensions, and establish and carry out pension, deferred
24 compensation, saving, thrift and other retirement, incentive and
25 benefit plans, trusts, and provisions for any or all of its directors,
26 officers, employees, and persons providing services to it or any of
27 its subsidiary or related or associated corporations, and to
28 indemnify and purchase and maintain insurance on behalf of any
29 fiduciary of such plans, trusts, or provisions.

30 (g) Levy dues, assessments, and admission fees.

31 (h) Make donations for the public welfare or for community
32 funds, hospital, charitable, educational, scientific, civic, religious,
33 or similar purposes.

34 (i) Assume obligations, enter into contracts, including contracts
35 of guarantee or suretyship, incur liabilities, borrow or lend money
36 or otherwise use its credit, and secure any of its obligations,
37 contracts or liabilities by mortgage, pledge or other encumbrance
38 of all or any part of its property and income.

39 (j) Participate with others in any partnership, joint venture or
40 other association, transaction or arrangement of any kind whether

1 or not such participation involves sharing or delegation of control
2 with or to others.

3 (k) Act as trustee under any trust incidental to the principal
4 objects of the corporation, and receive, hold, administer, exchange,
5 and expend funds and property subject to such trust.

6 (l) Carry on a business at a profit and apply any profit that results
7 from the business activity to any activity in which it may lawfully
8 engage.

9 (m) Pay the reasonable value of services rendered in this state
10 to the corporation before January 1, 1975, and not previously paid,
11 by any person who performed such services on a full-time basis
12 under the direction of a religious organization in connection with
13 the religious tenets of the organization. Such person shall have
14 relied solely on the religious organization for his or her financial
15 support for a minimum of five years. A payment shall not be made
16 if such person or religious organization waives the payment or
17 receipt of compensation for such services in writing. Payment may
18 be made to such religious organization to reimburse it for
19 maintenance of any person who rendered such services and to
20 assist it in providing future support and maintenance; however,
21 payment shall not be made from any funds or assets acquired with
22 funds donated by or traceable to gifts made to the corporation by
23 any person, organization, or governmental agency other than the
24 members, immediate families of members, and affiliated religious
25 organizations of the religious organization under whose direction
26 the services were performed.

27 (n) (1) ~~In advance~~ *anticipation* of or during an emergency, take
28 ~~any or all either or both~~ of the following actions necessary to
29 conduct the corporation's ordinary business operations and affairs
30 ~~during an emergency~~, unless emergency bylaws provide otherwise
31 pursuant to subdivision (g) of Section 5151:

32 (A) Modify lines of succession to accommodate the incapacity
33 of any director, officer, employee, or agent resulting from the
34 emergency.

35 (B) Relocate the principal office, designate alternative principal
36 offices or regional offices, or authorize the officers to do so.

37 (2) *During an emergency, take either or both of the following*
38 *actions necessary to conduct the corporation's ordinary business*
39 *operations and affairs, unless emergency bylaws provide otherwise*
40 *pursuant to subdivision (g) of Section 5151:*

1 ~~(C)~~

2 (A) Give notice to a director or directors in any practicable
3 manner under the circumstances, including, but not limited to, by
4 publication and radio, when notice of a meeting of the board cannot
5 be given to that director or directors in the manner prescribed by
6 the bylaws or Section 5211.

7 ~~(D)~~

8 (B) Deem that one or more officers of the corporation present
9 at a board meeting is a director, in order of rank and within the
10 same rank in order of seniority, as necessary to achieve a quorum
11 for that meeting.

12 ~~(2) During~~

13 (3) *In anticipation of or during* an emergency, the board may
14 not take any action that requires the vote of the shareholders or is
15 not in the corporation's ordinary course of business, unless the
16 required vote of the ~~shareholders~~ *members* was obtained prior to
17 the emergency.

18 ~~(3)~~

19 (4) Any actions taken in good faith *in anticipation of or during*
20 an emergency under this subdivision ~~binds~~ *bind* the corporation
21 and may not be used to impose liability on a corporate director,
22 officer, employee, or agent.

23 ~~(4)~~

24 (5) For purposes of this subdivision, "emergency" means any
25 of the following events or circumstances as a result of which, and
26 only so long as, a quorum of the corporation's board of directors
27 cannot be readily convened for action:

28 (A) A natural catastrophe, including, but not limited to, a
29 hurricane, tornado, storm, high water, wind-driven water, tidal
30 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
31 snowstorm, or drought, or, regardless of cause, any fire, flood, or
32 explosion.

33 (B) An attack on this state or nation by an enemy of the United
34 States of America, or upon receipt by this state of a warning from
35 the federal government indicating that an enemy attack is probable
36 or imminent.

37 (C) An act of terrorism or other manmade disaster that results
38 in extraordinary levels of casualties or damage or disruption
39 severely affecting the infrastructure, environment, economy,

1 government functions, or population, including, but not limited
2 to, mass evacuations.

3 (D) A state of emergency proclaimed by ~~the Governor~~ a
4 *governor or by the President*.

5 SEC. 4. Section 5151 of the Corporations Code is amended to
6 read:

7 5151. (a) The bylaws shall set forth (unless that provision is
8 contained in the articles, in which case it may only be changed by
9 an amendment of the articles) the number of directors of the
10 corporation, or the method of determining the number of directors
11 of the corporation, or that the number of directors shall be not less
12 than a stated minimum nor more than a stated maximum with the
13 exact number of directors to be fixed, within the limits specified,
14 by approval of the board or the members (Section 5034), in the
15 manner provided in the bylaws, subject to subdivision (e). The
16 number or minimum number of directors may be one or more.

17 (b) Once members have been admitted, a bylaw specifying or
18 changing a fixed number of directors or the maximum or minimum
19 number or changing from a fixed to a variable board or vice versa
20 may only be adopted by approval of the members (Section 5034).

21 (c) The bylaws may contain any provision, not in conflict with
22 law or the articles, for the management of the activities and for
23 the conduct of the affairs of the corporation, including but not
24 limited to:

25 (1) Any provision referred to in subdivision (c) of Section 5132.

26 (2) The time, place, and manner of calling, conducting, and
27 giving notice of members', directors', and committee meetings,
28 or of conducting mail ballots.

29 (3) The qualifications, duties, and compensation of directors;
30 the time of their election; and the requirements of a quorum for
31 directors' and committee meetings.

32 (4) The appointment and authority of committees.

33 (5) The appointment, duties, compensation, and tenure of
34 officers.

35 (6) The mode of determination of members of record.

36 (7) The making of reports and financial statements to members.

37 (8) Setting, imposing and collecting dues, assessments, and
38 admission fees.

1 (d) The bylaws may provide for the manner of admission,
2 withdrawal, suspension, and expulsion of members, consistent
3 with the requirements of Section 5341.

4 (e) The bylaws may require, for any or all corporate actions
5 (except as provided in paragraphs (1) and (2) of subdivision (a) of
6 Section 5222, subdivision (c) of Section 5616, and Section 6610),
7 the vote of a larger proportion of, or all of, the members or the
8 members of any class, unit, or grouping of members, or the vote
9 of a larger proportion of, or all of, the directors, than is otherwise
10 required by this part. Such a provision in the bylaws requiring such
11 greater vote shall not be altered, amended, or repealed except by
12 such greater vote, unless otherwise provided in the bylaws.

13 (f) The bylaws may contain a provision limiting the number of
14 members, in total or of any class, which the corporation is
15 authorized to admit.

16 (g) (1) The bylaws may contain any provision, not in conflict
17 with the articles, to manage and conduct the ordinary business
18 affairs of the corporation effective only in an emergency as defined
19 in Section 5140, including, but not limited to, procedures for calling
20 a board meeting, quorum requirements for a board meeting, and
21 designation of additional or substitute directors.

22 (2) During an emergency, the board may not take any action
23 that requires the vote of the ~~shareholders~~ *members* or otherwise is
24 not in the corporation's ordinary course of business, unless the
25 required vote of the ~~shareholders~~ *members* was obtained prior to
26 the emergency.

27 (3) All provisions of the regular bylaws consistent with the
28 emergency bylaws shall remain effective during the emergency,
29 and the emergency bylaws shall not be effective after the
30 emergency ends.

31 (4) Corporate action taken in good faith in accordance with the
32 emergency bylaws binds the corporation, and may not be used to
33 impose liability on a corporate director, officer, employee, or agent.

34 SEC. 5. Section 7140 of the Corporations Code is amended to
35 read:

36 7140. Subject to any limitations contained in the articles or
37 bylaws and to compliance with other provisions of this division
38 and any other applicable laws, a corporation, in carrying out its
39 activities, shall have all of the powers of a natural person,
40 including, without limitation, the power to:

1 (a) Adopt, use, and at will alter a corporate seal, but failure to
2 affix a seal does not affect the validity of any instrument.

3 (b) Adopt, amend, and repeal bylaws.

4 (c) Qualify to conduct its activities in any other state, territory,
5 dependency, or foreign country.

6 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
7 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
8 use, and otherwise deal in and with its own memberships, bonds,
9 debentures, notes, and debt securities.

10 (e) Pay pensions, and establish and carry out pension, deferred
11 compensation, saving, thrift and other retirement, incentive, and
12 benefit plans, trusts, and provisions for any or all of its directors,
13 officers, employees, and persons providing services to it or any of
14 its subsidiary or related or associated corporations, and to
15 indemnify and purchase and maintain insurance on behalf of any
16 fiduciary of such plans, trusts, or provisions.

17 (f) Issue certificates evidencing membership in accordance with
18 the provisions of Section 7313 and issue identity cards.

19 (g) Levy dues, assessments, and admission and transfer fees.

20 (h) Make donations for the public welfare or for community
21 funds, hospital, charitable, educational, scientific, civic, religious,
22 or similar purposes.

23 (i) Assume obligations, enter into contracts, including contracts
24 of guarantee or suretyship, incur liabilities, borrow or lend money
25 or otherwise use its credit, and secure any of its obligations,
26 contracts or liabilities by mortgage, pledge or other encumbrance
27 of all or any part of its property and income.

28 (j) Participate with others in any partnership, joint venture or
29 other association, transaction or arrangement of any kind whether
30 or not such participation involves sharing or delegation of control
31 with or to others.

32 (k) Act as trustee under any trust incidental to the principal
33 objects of the corporation, and receive, hold, administer, exchange,
34 and expend funds and property subject to such trust.

35 (l) Carry on a business at a profit and apply any profit that results
36 from the business activity to any activity in which it may lawfully
37 engage.

38 (m) (1) ~~In advance~~ *anticipation* of, or during an emergency,
39 ~~take any or all~~ *either or both* of the following actions necessary
40 to conduct the corporation's ordinary business operations and

1 ~~affairs during an emergency~~, unless emergency bylaws provide
2 otherwise pursuant to subdivision (g) of Section 7151:

3 (A) Modify lines of succession to accommodate the incapacity
4 of any director, officer, employee, or agent resulting from the
5 emergency.

6 (B) Relocate the principal office, designate alternative principal
7 offices or regional offices, or authorize the officers to do so.

8 (2) *During an emergency, take either or both of the following*
9 *actions necessary to conduct the corporation's ordinary business*
10 *operations and affairs, unless emergency bylaws provide otherwise*
11 *pursuant to subdivision (g) of Section 7151:*

12 ~~(C)~~

13 (A) Give notice to a director or directors in any practicable
14 manner under the circumstances, including, but not limited to, by
15 publication and radio, when notice of a meeting of the board cannot
16 be given to that director or directors in the manner prescribed by
17 the bylaws or Section 7211.

18 ~~(D)~~

19 (B) Deem that one or more officers of the corporation present
20 at a board meeting is a director, in order of rank and within the
21 same rank in order of seniority, as necessary to achieve a quorum
22 for that meeting.

23 ~~(2) During~~

24 (3) *In anticipation of or during* an emergency, the board may
25 not take any action that requires the vote of the ~~shareholders~~
26 *members* or is not in the corporation's ordinary course of business,
27 unless the required vote of the ~~shareholders~~ *members* was obtained
28 prior to the emergency.

29 ~~(3)~~

30 (4) Any actions taken in good faith *in anticipation of or during*
31 *an emergency under this subdivision binds bind* the corporation
32 and may not be used to impose liability on a corporate director,
33 officer, employee, or agent.

34 ~~(4)~~

35 (5) For purposes of this subdivision, "emergency" means any
36 of the following events or circumstances as a result of which, and
37 only so long as, a quorum of the corporation's board of directors
38 cannot be readily convened for action:

39 (A) A natural catastrophe, including, but not limited to, a
40 hurricane, tornado, storm, high water, wind-driven water, tidal

1 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
2 snowstorm, or drought, or, regardless of cause, any fire, flood, or
3 explosion.

4 (B) An attack on this state or nation by an enemy of the United
5 States of America, or upon receipt by this state of a warning from
6 the federal government indicating that an enemy attack is probable
7 or imminent.

8 (C) An act of terrorism or other manmade disaster that results
9 in extraordinary levels of casualties or damage or disruption
10 severely affecting the infrastructure, environment, economy,
11 government functions, or population, including, but not limited
12 to, mass evacuations.

13 (D) A state of emergency proclaimed by ~~the Governor~~ *a*
14 *governor or by the President.*

15 SEC. 6. Section 7151 of the Corporations Code is amended to
16 read:

17 7151. (a) The bylaws shall set forth (unless such provision is
18 contained in the articles, in which case it may only be changed by
19 an amendment of the articles) the number of directors of the
20 corporation, or the method of determining the number of directors
21 of the corporation, or that the number of directors shall be not less
22 than a stated minimum nor more than a stated maximum with the
23 exact number of directors to be fixed, within the limits specified,
24 by approval of the board or the members (Section 5034), in the
25 manner provided in the bylaws, subject to subdivision (e). The
26 number or minimum number of directors may be one or more.

27 (b) Once members have been admitted, a bylaw specifying or
28 changing a fixed number of directors or the maximum or minimum
29 number or changing from a fixed to a variable board or vice versa
30 may only be adopted by approval of the members (Section 5034).

31 (c) The bylaws may contain any provision, not in conflict with
32 law or the articles, for the management of the activities and for
33 the conduct of the affairs of the corporation, including but not
34 limited to:

35 (1) Any provision referred to in subdivision (c) of Section 7132.

36 (2) The time, place, and manner of calling, conducting, and
37 giving notice of members', directors', and committee meetings,
38 or of conducting mail ballots.

1 (3) The qualifications, duties, and compensation of directors;
2 the time of their election; and the requirements of a quorum for
3 directors' and committee meetings.

4 (4) The appointment of committees, composed of directors or
5 nondirectors, or both, by the board or any officer and the authority
6 of any such committees.

7 (5) The appointment, duties, compensation, and tenure of
8 officers.

9 (6) The mode of determination of members of record.

10 (7) The making of reports and financial statements to members.

11 (8) Setting, imposing, and collecting dues, assessments, and
12 admission and transfer fees.

13 (d) The bylaws may provide for the manner of admission,
14 withdrawal, suspension, and expulsion of members, consistent
15 with the requirements of Section 7341.

16 (e) The bylaws may require, for any or all corporate actions
17 (except as provided in paragraphs (1) and (2) of subdivision (a) of
18 Section 7222, subdivision (c) of Section 7615, and Section 8610)
19 the vote of a larger proportion of, or all of, the members or the
20 members of any class, unit, or grouping of members or the vote
21 of a larger proportion of, or all of, the directors, than is otherwise
22 required by this part. Such a provision in the bylaws requiring such
23 greater vote shall not be altered, amended, or repealed except by
24 such greater vote, unless otherwise provided in the bylaws.

25 (f) The bylaws may contain a provision limiting the number of
26 members, in total or of any class, which the corporation is
27 authorized to admit.

28 (g) (1) The bylaws may contain any provision, not in conflict
29 with the articles, to manage and conduct the ordinary business
30 affairs of the corporation effective only in an emergency as defined
31 in Section 7140, including, but not limited to, procedures for calling
32 a board meeting, quorum requirements for a board meeting, and
33 designation of additional or substitute directors.

34 (2) During an emergency, the board may not take any action
35 that requires the vote of the ~~shareholders~~ *members* or otherwise is
36 not in the corporation's ordinary course of business, unless the
37 required vote of the ~~shareholders~~ *members* was obtained prior to
38 the emergency.

39 (3) All provisions of the regular bylaws consistent with the
40 emergency bylaws shall remain effective during the emergency,

1 and the emergency bylaws shall not be effective after the
2 emergency ends.

3 (4) Corporate action taken in good faith in accordance with the
4 emergency bylaws binds the corporation, and may not be used to
5 impose liability on a corporate director, officer, employee, or agent.

6 SEC. 7. Section 9140 of the Corporations Code is amended to
7 read:

8 9140. Subject to any limitations contained in the articles or
9 bylaws and to compliance with other provisions of this division
10 and any other applicable laws, a corporation, in carrying out its
11 activities, shall have all of the powers of a natural person,
12 including, without limitation, the power to:

13 (a) Adopt, use, and at will alter a corporate seal, but failure to
14 affix a seal does not affect the validity of any instrument.

15 (b) Adopt, amend, and repeal bylaws.

16 (c) Qualify to conduct its activities in any other state, territory,
17 dependency, or foreign country.

18 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
19 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
20 use, and otherwise deal in and with its own bonds, debentures,
21 notes and debt securities.

22 (e) Issue memberships.

23 (f) Pay pensions, and establish and carry out pension, deferred
24 compensation, saving, thrift, and other retirement, incentive, and
25 benefit plans, trusts, and provisions for any or all of its directors,
26 officers, employees, and persons providing services to it or any of
27 its subsidiary or related or associated corporations, and to
28 indemnify and purchase and maintain insurance on behalf of any
29 fiduciary of such plans, trusts, or provisions.

30 (g) Levy dues, assessments, and fees.

31 (h) Make donations for the public welfare or for community
32 funds, hospital, charitable, educational, scientific, civic, religious,
33 or similar purposes.

34 (i) Assume obligations, enter into contracts, including contracts
35 of guarantee or suretyship, incur liabilities, borrow or lend money
36 or otherwise use its credit, and secure any of its obligations,
37 contracts or liabilities by mortgage, pledge or other encumbrance
38 of all or any part of its property and income.

39 (j) Participate with others in any partnership, joint venture or
40 other association, transaction or arrangement of any kind whether

1 or not such participation involves sharing or delegation of control
2 with or to others.

3 (k) Act as trustee under any trust incidental to the principal
4 objects of the corporation, and receive, hold, administer, exchange,
5 and expend funds and property subject to such trust.

6 (l) Carry on a business at a profit and apply any profit that results
7 from the business activity to any activity in which it may lawfully
8 engage.

9 (m) Pay the reasonable value of services rendered in this state
10 to the corporation before January 1, 1975, and not previously paid,
11 by any person who performed such services on a full-time basis
12 under the direction of a religious organization in connection with
13 the religious tenets of the organization. Such person shall have
14 relied solely on the religious organization for his or her financial
15 support for a minimum of five years. A payment shall not be made
16 if such person or religious organization waives the payment or
17 receipt of compensation for such services in writing. Payment may
18 be made to such religious organization to reimburse it for
19 maintenance of any person who rendered such services and to
20 assist it in providing future support and maintenance; however,
21 payment shall not be made from any funds or assets acquired with
22 funds donated by or traceable to gifts made to the corporation by
23 any person, organization, or governmental agency other than the
24 members, immediate families of members, and affiliated religious
25 organizations of the religious organization under whose direction
26 the services were performed.

27 (n) (1) ~~In advance~~ *anticipation* of or during an emergency, take
28 ~~any or all either or both~~ of the following actions necessary to
29 conduct the corporation's ordinary business operations and affairs
30 ~~during an emergency~~, unless emergency bylaws provide otherwise
31 pursuant to subdivision (g) of Section 9151:

32 (A) Modify lines of succession to accommodate the incapacity
33 of any director, officer, employee, or agent resulting from the
34 emergency.

35 (B) Relocate the principal office, designate alternative principal
36 offices or regional offices, or authorize the officers to do so.

37 (2) *During an emergency, take either or both of the following*
38 *actions necessary to conduct the corporation's ordinary business*
39 *operations and affairs, unless emergency bylaws provide otherwise*
40 *pursuant to subdivision (g) of Section 9151:*

1 ~~(C)~~

2 (A) Give notice to a director or directors in any practicable
3 manner under the circumstances, including, but not limited to, by
4 publication and radio, when notice of a meeting of the board cannot
5 be given to that director or directors in the manner prescribed by
6 the bylaws or Section 9211.

7 ~~(D)~~

8 (B) Deem that one or more officers of the corporation present
9 at a board meeting is a director, in order of rank and within the
10 same rank in order of seniority, as necessary to achieve a quorum
11 for that meeting.

12 ~~(2) During~~

13 (3) *In anticipation of or during* an emergency, the board may
14 not take any action that requires the vote of the ~~shareholders~~
15 *members* or is not in the corporation's ordinary course of business,
16 unless the required vote of the ~~shareholders members~~ was obtained
17 prior to the emergency.

18 ~~(3)~~

19 (4) Any actions taken in good faith *in anticipation of or during*
20 an emergency under this subdivision ~~binds~~ *bind* the corporation
21 and may not be used to impose liability on a corporate director,
22 officer, employee, or agent.

23 ~~(4)~~

24 (5) For purposes of this subdivision, "emergency" means any
25 of the following events or circumstances as a result of which, and
26 only so long as, a quorum of the corporation's board of directors
27 cannot be readily convened for action:

28 (A) A natural catastrophe, including, but not limited to, a
29 hurricane, tornado, storm, high water, wind-driven water, tidal
30 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
31 snowstorm, or drought, or, regardless of cause, any fire, flood, or
32 explosion.

33 (B) An attack on this state or nation by an enemy of the United
34 States of America, or upon receipt by this state of a warning from
35 the federal government indicating that an enemy attack is probable
36 or imminent.

37 (C) An act of terrorism or other manmade disaster that results
38 in extraordinary levels of casualties or damage or disruption
39 severely affecting the infrastructure, environment, economy,

1 government functions, or population, including, but not limited
2 to, mass evacuations.

3 (D) A state of emergency proclaimed by ~~the Governor~~ a
4 *governor or by the President*.

5 SEC. 8. Section 9151 of the Corporations Code is amended to
6 read:

7 9151. (a) The bylaws shall set forth (unless such provision is
8 contained in the articles, in which case it may only be changed by
9 an amendment of the articles) the number of directors of the
10 corporation, or the method of determining the number of directors
11 of the corporation, or that the number of directors shall be not less
12 than a stated minimum nor more than a stated maximum with the
13 exact number of directors to be fixed, within the limits specified,
14 by approval of the board or the members (Section 5034), in the
15 manner provided in the bylaws, subject to subdivision (e) of
16 Section 9151. The number or minimum number of directors may
17 be one or more.

18 (b) Except as otherwise provided in the articles or bylaws, once
19 members have been admitted, a bylaw specifying or changing a
20 fixed number of directors or the maximum or minimum number
21 or changing from a fixed to a variable board or vice versa may
22 only be adopted by approval of the members (Section 5034).

23 (c) The bylaws may contain any provision, not in conflict with
24 law or the articles, for the management of the activities and for
25 the conduct of the affairs of the corporation, including but not
26 limited to:

27 (1) Any provision referred to in subdivision (c) of Section 9132.

28 (2) The time, place, and manner of calling, conducting, and
29 giving notice of members', directors', and committee meetings,
30 or of conducting mail ballots.

31 (3) The qualifications, duties, and compensation of directors;
32 the time of their election; and the requirements of a quorum for
33 directors' and committee meetings.

34 (4) The appointment of committees, composed of directors or
35 nondirectors, or both, by the board or any officer and the authority
36 of any such committees.

37 (5) The appointment, duties, compensation, and tenure of
38 officers.

39 (6) The mode of determination of members of record.

40 (7) The making of reports and financial statements to members.

1 (8) Setting, imposing, and collecting dues, assessments, and
2 admissions and transfer fees.

3 (d) The bylaws may provide for the manner of admission,
4 withdrawal, suspension, and expulsion of members.

5 (e) The bylaws may require, for any or all corporate actions
6 (except as provided in Section 9222 and subdivision (b) of Section
7 9680), the vote of a larger proportion of, or all of, the members or
8 the members of any class, unit, or grouping of members, or the
9 vote of a larger proportion of, or all of, the directors than is
10 otherwise required by this part. Such a provision in the bylaws
11 requiring such greater vote shall not be altered, amended, or
12 repealed except by such greater vote, unless otherwise provided
13 in the bylaws.

14 (f) The bylaws may contain a provision limiting the number of
15 members, in total or of any class, which the corporation is
16 authorized to admit.

17 (g) (1) The bylaws may contain any provision, not in conflict
18 with the articles, to manage and conduct the ordinary business
19 affairs of the corporation effective only in an emergency as defined
20 in Section 9140, including, but not limited to, procedures for calling
21 a board meeting, quorum requirements for a board meeting, and
22 designation of additional or substitute directors.

23 (2) During an emergency, the board may not take any action
24 that requires the vote of the ~~shareholders~~ *members* or otherwise is
25 not in the corporation's ordinary course of business, unless the
26 required vote of the ~~shareholders~~ *members* was obtained prior to
27 the emergency.

28 (3) All provisions of the regular bylaws consistent with the
29 emergency bylaws shall remain effective during the emergency,
30 and the emergency bylaws shall not be effective after the
31 emergency ends.

32 (4) Corporate action taken in good faith in accordance with the
33 emergency bylaws binds the corporation, and may not be used to
34 impose liability on a corporate director, officer, employee, or agent.

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